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Written statement* submitted by the Asian Legal Resource Centre, a non-governmental organization in general consultative status, and ODHIKAR – Coalition for Human Rights, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement, which is hereby circulated in accordance with Economic and Social Council resolution 1996/31.

[2 February 2018]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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MYANMAR: The UN should act effectively to stop State-orchestrated genocidal violence against the Rohingya

The Asian Legal Resource Centre (ALRC) and Odhikar draw the attention of the UN Human Rights Council. It is concerned about the current situation of the Rohingya Community in the Rakhine State of Myanmar. We seek immediate and effective action from the international human rights community. There is a need to protect the Rohingya people from further violence by Myanmar security forces. There is an undeniable need for and ensuring the safe return of the Rohingyas from Bangladesh to their original homes in Myanmar.

The Government of Myanmar has been systematically denying the Rohingya people's fundamental rights in the Rakhine State[1]. The Rohingya people are not even considered citizens of Myanmar. The systematic process of persecution and eviction of Rohingyas from Myanmar is not new.[2] The militarised Government of Myanmar and its civilian partners have deprived the Rohingya community for decades of their fundamental rights. The State authorities have evicted victims from their own land although historic records assert that the Rohingyas have been living there for hundreds of years.

The Myanmar Government has conducted several large-scale operations against Rohingyas based on various excuses. From 25 August 2017, the Myanmar Army, and Buddhist extremists again committed violations amounting to genocide against the Rohingya community. They forcefully evicted the Rohingyas from most parts of the Rakhine State of Myanmar. They conducted violent operations in different Rohingya villages such as Tulatuli Swe Parang on the pretext of searching for 'militants', who were allegedly Rohingya Muslims. During these operations, the Rohingya people experienced such horrors as enforced disappearances, mass rapes, killings, burning families and houses, torture and other forms of violence. Both the Tatmadaw and Buddhist extremists have launched wide-spread atrocities against the Rohingya. As a result, thousands began to take refuge in Bangladesh by crossing the Naf River.[3] Many women, children and men drowned when their boats capsized while crossing the river.

The Rohingya refugees have taken shelter in Bangladesh's coastal city, Cox's Bazaar. Odhikar has carried out several fact-finding missions and interviewed many Rohingya refugees. The interviews were conducted in both registered and unregistered camps at Shah Porir Dwip, Teknaf, Leda, Palong Khali, Thaingkhali, Balukhali, Hakimpata and Kutub Palong. The fact-finding missions continue even while preparing this submission for the Human Rights Council's 37th Regular Session. The interviews reveal that the Rohingya women were subjected to gang-rape. Numerous men, women and children were tortured, shot or burned to death while many were disappeared. The Myanmar soldiers committed gang-rape and killing of children in front of the victims' parents and siblings. The soldiers raped wives in front of their husbands, according to victims' accounts. Furthermore, there are allegations of detaining women and children in the military camps as sex slaves. These testimonies, of victims and witnesses of the brutality of Myanmar Soldiers, and Buddhist extremists, provide clear evidence of genocide against Rohingyas. Extracts from the following statements of some of the survivors highlights the level of violence:

Case Study 1:

Ms. Dildar Begum (30) said that on 29 August 2017 the Myanmar Army and local Buddhist extremists attacked her in Tulatuli Village. She, her husband, children, other family members and many villagers left their houses. They ran towards the dam beside the Tulatuli Canal with the soldiers pursuing them. The soldiers surrounded them and killed the men, women and children but took the young women away. Later the soldiers buried all the bodies in six trenches in the Tulatuli swamp; each trench was 50-60 feet long, five to six feet wide and four to five feet deep. After some time, the soldiers took Dildar Begum with her four children to a house in the village. She saw the bodies of many women and children inside the house where the floor was covered in blood. She was raped by the soldiers, who hit her children with rifle butts and smashed their heads. They hit her in the head, too. The soldiers then set fire to the house and left. Dildar and one of her children managed to escape.

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[1] The Arakan state was renamed as Rakhine by the Myanmar government.

[2] Such crimes against humanity by the Myanmar government escalated when General Ne Win assumed power in 1962. This has continued in the government of Aung San Suu Kyi. Please see http://pulitzercenter.org/reporting/bangladesh-plight-rohingya

[3] Odhikar, *interview with Rohingya survivors*, 11-15 September 2017.

Case Study 2:

Mr. Abdul Karim (19) said that on 27 August 2017 at 2:00 pm, the Burmese Army attacked his village of Swe Prang, Village (). They set fire to a Mosque and opened fire indiscriminately. He and approximately 20 other villagers took shelter in the house of Mr. Sona Mia. After a while, some soldiers entered the house and shot at them. Abdul Karim jumped through a window and into a pond beside the house. He was shot in the leg but managed to reach the other side of the pond. He saw soldiers kill everyone inside the house and set fire to it. Later Abdur Karim was rescued by some villagers and fled to Bangladesh. Doctors at the medical camp had to amputate his left leg due to infection caused by the gunshot wound.

Case Study 3:

Mr. Sayedul Islam (45) said that on 27 August 2017 at 2:00 am, when he was sleeping, the Burmese Army attacked his Village of Swe Prang. The soldiers were searching for some Rohingya youth of the village. Earlier they took photos and videos of the massacre carried out by the soldiers. Some of the youth crossed his house as they were fleeing, but the soldiers thought they had hid inside his house. Three soldiers entered his house, dragged him out and started beating him with their with rifle butts. His pelvis was fractured. Two days later the soldiers attacked the village again. His brother-in-law Yusuf was murdered. They took away Yusuf's daughter, his daughter-in-law and two grandsons. All of them were found dead in a paddy field, having been shot in the head.

There were allegations against the Myanmar Army for committing genocide on Rohingyas but the Myanmar Government and Ms. Aung San Suu Kyi denied such allegations. The latter commented that the Rohingya militants attacked the police, so operations against the terrorists are underway.[4] Unfortunately, however, under the pretext of 'security', the Government of Myanmar does not allow any national or international media or any human rights groups access to the affected regions.[5]

On 16 January 2018, a document on 'Physical Arrangement' was signed between Bangladesh and Myanmar. It concerned repatriation of Rohingyas since October 2016, who fled violence in Myanmar's Rakhine State and took refuge in Bangladesh. The instrument stipulates that the repatriation would be completed "preferably" within two years from the commencement of repatriation. However, Rohingyas are still fleeing Myanmar and taking shelter in Bangladesh.[6]

Twenty-one Rohingya Organisations, operating globally, have sought the following guarantee before the refugees return. Ensure the security of Rohingya life and property with 'peaceful co-existence' as equals with all other people in Myanmar's Rakhine State. These Organisations issued a 12-point statement saying that these demands were 'imperative for safe and voluntary' repatriation of the Rohingyas. However, there has been no change in the attitude of the Myanmar Government and Military towards Rohingya. They still identify Rohingya as recent 'Bengali interlopers' from Bangladesh. The Rohingyas continue entering Bangladesh due to continuing violence and brutality against them in Arakan.[7]

Meanwhile, Bangladesh has agreed to a time-frame with Myanmar for repatriating hundreds of thousands of Rohingyas who fled a military crackdown last year. As per plan, Myanmar would accept 1,500 Rohingyas weekly, which will take two years to return all to Myanmar.[8] According to Myanmar's Foreign Ministry, Myanmar would shelter the returnees in a temporary accommodation at the 124-acre Hla Pho Khung Camp near Maungdaw Township. It can accommodate

[4] 'Myanmar's Rohingya: Truth, lies and Aung San Suu Kyi', BBC, 27 January 2017; http://www.bbc.com/news/world-asia-38756601

[5] 'Head of new crisis panel urges access to Myanmar's Rakhine state', Reuters, 6 January 2018; https://www.reuters.com/article/us-myanmar-rohingya-surakiart/head-of-new-crisis-panel-urges-access-to-myanmars-rakhine-state-idUSKBN1EV0HI

[6] 'Dhaka mindful of repatriation challenges as Rohingya still coming', Dhaka Tribune, 19 January, 2018, https://www.dhakatribune.com/bangladesh/foreign-affairs/2018/01/19/dhaka-mindful-repatriation-challenges-rohingya-still-coming/

[7] See http://www.rohingyablogger.com/2018/01/joint-statement-rohingyas-concerns-over.html

[8] 'We cannot send refugees to concentration camps', The New Nation, 17 January 2018, http://m.thedailynewnation.com/news/161730/we-cannot-send-refugees-to-concentration-camps

30,000 people in 625 buildings.[9] It seems that the Rohingyas are likely being sent to concentration camps in Myanmar that may be used for extermination, as the returnees will be kept in isolation.

The UN Secretary-General Antonio Guterres expressed concern after Myanmar and Bangladesh signed an arrangement on the return of hundreds of thousands of Muslim Rohingyas that sidelined the UN refugee agency. He said that "The worst would be to move these people from camps in Bangladesh to camps in Myanmar, keeping an artificial situation for a long time and not allowing them to return to their normal lives."[10]

The Bangladesh Government should not send back the Rohingya people to Myanmar unless the Myanmar Government takes concrete steps to guarantee that all returning refugees will enjoy human rights and citizenship in Myanmar. All military operations in Rakhine State should be stopped. The Government should allow the United Nations and International Human Rights Organisations to monitor the situation in the Rakhine Region. This would allow everyone to work to ensure the transition to a peaceful and stable state. Proper initiatives should ensure special security measures for victims and witnesses. The Myanmar Government must agree to provide identification and identity cards to all Rohingya refugees who have taken shelter in Bangladesh through direct supervision of the United Nations. Myanmar has to arrange the return of Rohingas based on these identity cards. The Constitution of Myanmar and Citizenship Law should be amended in conformity with international human rights standards. This would enable the Rohingyas to become citizens of Myanmar with all the rights and obligations that come with such status. The UNHCR, which is managing the refugee camps, should be involved in the repatriation process.

Therefore, we urge the International Community, particularly the UNHCR, to take up this matter. Pressure the Myanmar authorities to stop the brutality. Ensure a safe, voluntary and dignified return of Rohingyas from Bangladesh to Myanmar. Make their return sustainable. Bring the perpetrators under the International Justice Mechanism for committing genocide against the Rohingyas. No further State-orchestrated genocidal violence and prejudice should take place in Myanmar against the Rohingya. The UN has an undeniable responsibility for taking effective punitive action against the Military and Security Forces of Myanmar. It has to ensure that the Rohingyas are treated under the Principles of human rights and with human dignity.

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[9] 'Concerns over 'premature' plan to repatriate Rohingya refugees', by Euan Mckirdy, CNN, 17 January 2018; http://edition.cnn.com/2018/01/17/asia/bangladesh-myanmar-rohingya-repatriation-plan-intl/index.html

[10] 'Bangladesh agrees with Myanmar to complete Rohingya return in two years', Reuters, 16 January 2018; https://www.reuters.com/article/us-myanmar-rohingya-bangladesh/bangladesh-agrees-with-myanmar-to-complete-rohingya-return-in-two-years-idUSKBN1F50I2